Remarks

This is in response to the Office Action dated February 27, 2009.

With the amendment to dependent claims 2-11, it is believed that indefiniteness rejection under 35 USC 112, 2nd paragraph is now moot and/or has been overcome. Applicant however makes of record that the dependent claims each is "an assembly" in its own right.

Claims 1-18 were rejected under 35 USC 103(a) as being obvious over Russo (US5775325) and Lund (US5598841).

Claims 1-2, 13-14 and 17 have been cancelled.

Independent claim 5 as now amended and claim 18 each define the structure of the closed system catheter assembly to have a patient-end fitting and a machine end fitting at opposite ends of the assembly, with the fittings separated by a flexible envelope.

In amended Claim 15, the assembly has a machine end fitting with a suction control valve. One end of the suction catheter and the flexible envelope is attached to this. The other end of the envelope is attached to the patient end fitting, which includes the deformable member and the external member that can be used to open the deformable member when it is in its second position. In this position, the suction catheter can be advanced and retracted through the deformable member. Claim 18 has similar features as claim 15

Lund also has a patient end fitting and a machine end fitting. In the embodiment shown in Fig. 1, Lund discloses a deformable barrier member 155 through which the catheter can be advanced but this is not opened by an external member, in the manner of the instant invention. Instead, barrier 155 is opened by the act of plugging the introducer housing 180 into the machine end fitting. Whilst this opens the barrier 155, it does not allow barrier 155 to close without disconnecting the introducer housing and removing the suction catheter. In the embodiment shown in Figs. 6 and 7, Lund does show a valve arrangement employing an external slide 450 that can be slid lengthwise to open or close the valve. This tube valve 440, however, is only employed in the machine end fitting and not in the patient end fitting in the manner now required by the amended claims of the present application. Furthermore, the Lund valve is only used for controlling flow of fluids through it and does not receive a suction catheter along it in the manner now specified in the amended main Claim.

It is submitted that, if it had been obvious to apply the flow control valve used by Lund in his machine end fitting to open and close the deformable member 155 in the patient end fitting, Lund would have employed such an arrangement instead of the one described. The very fact that Lund uses the slider flow control valve in the machine end fitting but not in the patient end fitting leads one away from considering that a similar arrangement could be used to open and close a deformable member through which the suction catheter is extended.

Lund and Russo both have their own solutions to opening a deformable member through which a suction catheter is extended, and both of these solutions differ from the solution provided by the present invention. Given that the valve arrangement shown in Figure 7 of Lund is a suction control valve, the logical outcome of any combination of the teaching of the Lund and Russo documents would be the replacement of Russo's suction control valve 51 with the Fig 7 valve of Lund (or vice versa). To take a feature of Lund that performs one function and use it to replace a feature in Russo that performs a completely different function is certainly not an obvious substitution to make.

Claim 12 has been amended to define specifically that the reinforcement member is of a material different from the deformable material used in the valve. The

Russo valve does not have any equivalent reinforcement member of a different material but instead relies on a thickening of the side walls 29 and 30 (column 4, lines 37 to 43).

In light of the foregoing, applicant respectfully submits that the instant invention is patentably distinguishable over the prior art. The Examiner is therefore respectfully requested to reconsider the application and pass the same to issue at an early date.

Respectfully submitted,

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